

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1593

Introduced by Senators Runner and Lowenthal
(Principal coauthor: Assembly Member Oropeza)
(Coauthor: Assembly Member Benoit)

February 24, 2006

An act to amend ~~Section 22658~~ *Sections 22658, 22953, and 40000.15 of, and to repeal Section 22658.2 of,* of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1593, as amended, Runner. Vehicles: removal: storage.

(1) Existing law requires a towing company to remove a vehicle parked on private property to the nearest public garage under specific circumstances if, among other things, the property owner or lessee's prior written authorization is obtained. Existing law requires as one of the conditions under which a vehicle may be removed from private property that a sign of specified dimensions and specified size for lettering conveying specified information be posted on the property. Existing law makes it a crime to violate provisions of the Vehicle Code.

This bill would *recast these provisions and would*, among other things:

(a) Require a vehicle be removed to a storage facility meeting certain requirements, as specified.

(b) ~~Increase the required dimensions and lettering size, and would require~~ *Require* the sign to include the name and telephone number of the towing company authorized to remove vehicle from the property.

(c) Require a towing company to post ~~either a \$25,000 or \$50,000~~ bond, ~~as applicable~~, and to hold a valid motor carrier permit, and to provide copies of the bond and permit to the owner, owner's agent, or person in lawful possession of the private property.

(d) Eliminate the liability of a towing company for damages to a removed vehicle while in transit and subsequent storage if the removal is made with the authorization of the owner, owner's agent, or person in lawful possession of the private property.

(e) Subject to a civil ~~penalty~~ *liability* of \$2,500, a towing company that fails to obtain the required bond.

(f) Require the owner, owner's agent, or person in lawful possession of the private property to have a written agreement containing specified terms with a towing company before authorizing the removal of a vehicle parked on the private property.

(g) Increase the liability of an owner, owner's agent, or person in lawful possession of the private property, not to exceed \$750, who fails to comply with specified requirements.

(h) Make a tow truck operator liable for a specified amount if the operator fails to return a vehicle to the vehicle's owner or owner's agent, upon his or her request, when the vehicle has not been removed from the property.

(i) Limit, to a specified amount, the release fee that a storage facility operator may charge for releasing a vehicle after normal business hours, as defined.

(j) Require a tow truck operator and all of the towing company's drivers to meet specified requirements.

(k) Require a tow truck operator removing a vehicle from a private property to take 2 photographs of the vehicle clearly showing the violation before removing the vehicle and to provide a vehicle owner or owner's agent with ~~one of the photographs~~ *a photocopy of the photograph*, under specified conditions.

(l) *Require a tow truck operator, upon a vehicle owner's request, to immediately and unconditionally release a vehicle that is not yet removed from a private property and in transit.*

(m) *Require a person operating or in charge of a storage facility to conspicuously display in that portion of the office where business is conducted with the public a sign of specified dimensions and lettering advising that a valid bank credit card and cash are acceptable means of payment.*

(n) Authorize, under a general authorization to remove a vehicle, the removal of vehicles that are illegally parked in a space or stall designated for disabled persons.

(o) Require the towing truck operator to notify the appropriate law enforcement agency of the removal, within 60 minutes of removing the vehicle from the private property.

The bill would ~~by imposing new requirements for a towing company or a tow truck operator to remove a vehicle from private property, including having to have a valid motor carrier permit, would create new crimes, and makes visitation of some of above provisions of a misdemeanor, thereby impose,~~ imposing a state-mandated local program.

(2) Existing law prohibits an owner or person in lawful possession of private property that is held open to the public, or a discernible portion thereof, for parking of vehicles at no fee, from towing or removing, or causing the towing or removal of a vehicle within one hour of the vehicle being parked, except as excluded.

This bill would exclude from this prohibition a vehicle that is parked in a manner that interferes with an entrance to, or exit from, the private property.

~~(2)~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22658 of the Vehicle Code is amended
2 to read:

3 22658. (a) ~~Except as provided in Section 22658.2, the An~~
4 owner, ~~the owner's agent,~~ or person in lawful possession of ~~any~~
5 a private property, ~~within one hour of notifying, by telephone or,~~
6 if impractical, ~~by the most expeditious means available, the local~~
7 ~~traffic law enforcement agency, including an "association", as~~
8 defined in Section 1351 of the Civil Code, of a common interest

1 *development, who has reliable documentation showing that the*
2 *towing company that will be used to remove a vehicle has posted*
3 *a bond required pursuant to this section and has a valid motor*
4 *carrier permit issued pursuant to Chapter 2 (commencing with*
5 *Section 36420) of Division 14.85, within one hour of notifying,*
6 *by telephone or, if impractical, by the most expeditious means*
7 *available, the local traffic enforcement agency, may cause the*
8 *removal of a vehicle parked on the property to the nearest public*
9 *garage a storage facility that meets the requirements of*
10 *subdivision (n) under any of the following circumstances:*

11 (1) There is displayed, in plain view at all entrances to the
12 property, a sign not less than 17 by 22 inches in size, with
13 lettering not less than one inch in height, prohibiting public
14 parking and indicating that vehicles will be removed at the
15 owner's expense, and containing the telephone number of the
16 local traffic law enforcement agency *and the name and telephone*
17 *number of the towing company authorized to remove vehicles*
18 *from the property.* The sign may also indicate that a citation may
19 also be issued for the violation.

20 (2) The vehicle has been issued a notice of parking violation,
21 and 96 hours have elapsed since the issuance of that notice.

22 (3) The vehicle is on private property and lacks an engine,
23 transmission, wheels, tires, doors, windshield, or any other major
24 part or equipment necessary to operate safely on the highways,
25 the owner or person in lawful possession of the private property
26 has notified the local traffic law enforcement agency, and 24
27 hours have elapsed since that notification.

28 (4) The lot or parcel upon which the vehicle is parked is
29 improved with a single-family dwelling.

30 (b) (1) ~~The person causing removal of tow truck operator~~
31 *removing the vehicle, if the person knows or is able to ascertain*
32 *from the property owner or the registration records of the*
33 *Department of Motor Vehicles the name and address of the*
34 *registered and legal owner of the vehicle, shall immediately give,*
35 *or cause to be given, notice in writing to the registered and legal*
36 *owner of the fact of the removal, the grounds for the removal,*
37 *and indicate the place to which the vehicle has been removed. If*
38 *the vehicle is stored in a public garage storage facility, a copy of*
39 *the notice shall be given to the proprietor of the garage storage*
40 *facility.* The notice provided for in this section shall include the

1 amount of mileage on the vehicle at the time of removal *and the*
2 *time of removal from the property.* If the ~~person~~ tow truck
3 operator does not know and is not able to ascertain the name of
4 the owner or for any other reason is unable to give the notice to
5 the owner as provided in this section, the ~~person causing removal~~
6 ~~of the vehicle~~ tow truck operator shall comply with the
7 requirements of subdivision (c) of Section 22853 relating to
8 notice in the same manner as applicable to an officer removing a
9 vehicle from private property.

10 (2) *Within 60 minutes of removing the vehicle from the*
11 *property, the tow truck operator shall notify the appropriate law*
12 *enforcement agency of the removal. A tow truck operator who*
13 *fails to provide this information in a timely manner is guilty of a*
14 *misdemeanor, punishable by a fine of not more than two*
15 *thousand five hundred dollars (\$2,500) or by imprisonment in the*
16 *county jail for not more than three months, or by both that fine*
17 *and imprisonment.*

18 (c) This section does not limit or affect any right or remedy
19 ~~which~~ that the owner, owner's agent, or person in lawful
20 possession of private property may have by virtue of other
21 provisions of law authorizing the removal of a vehicle parked
22 upon the private property.

23 (d) ~~The~~ An owner of a vehicle removed from private property
24 pursuant to subdivision (a) may recover for any damage to the
25 vehicle resulting from any intentional or negligent act of any
26 person causing the removal of, or removing, the vehicle.

27 (e) ~~Any~~ An owner, owner's agent, or person in lawful
28 possession of ~~any a private property, or an "association" pursuant~~
29 ~~to Section 22658.2,~~ causing the removal of a vehicle parked on
30 that property is liable for ~~double~~ *four times* the storage ~~or and~~
31 towing charges, *but not to exceed seven hundred fifty dollars*
32 *(\$750) whenever there has been a failure to comply with*
33 *paragraph (1), (2), or (3) of subdivision (a) or to state the grounds*
34 *for the removal of the vehicle if requested by the legal or*
35 *registered owner of the vehicle as required by subdivision (f).*

36 (f) ~~Any~~ An owner, owner's agent, or person in lawful
37 possession of ~~any a private property, or an "association" pursuant~~
38 ~~to Section 22658.2,~~ causing the removal of a vehicle parked on
39 that property, *or a tow truck operator that removes the vehicle*
40 shall state the grounds for the removal of the vehicle if requested

1 by the legal or registered owner of that vehicle. ~~Any A towing~~
2 company that removes a vehicle from private property ~~with the~~
3 ~~authorization of the property owner or the property owner's agent~~
4 *in compliance with subdivision (1)* shall not be held responsible in
5 ~~any a~~ situation relating to the validity of the removal. ~~Any A~~
6 towing company that removes the vehicle under this section shall
7 be responsible for ~~(1) any damage~~ *the following*:

8 (1) *Damage to the vehicle in the transit and subsequent storage*
9 *of the vehicle and (2) the.*

10 (2) *The removal of a vehicle other than the vehicle specified*
11 *by the owner, owner's agent, or other person in lawful*
12 *possession of the private property.*

13 (g) (1) Possession of ~~any a~~ vehicle under this section shall be
14 deemed to arise when a vehicle is removed from private property
15 and is in transit.

16 (2) *Upon the request of the owner of the vehicle or that*
17 *owner's agent, the towing company or its driver shall*
18 *immediately and unconditionally release a vehicle that is not yet*
19 *removed from the private property and in transit.*

20 (3) *A tow truck operator failing to comply with paragraph (2)*
21 *is guilty of a misdemeanor, punishable by a fine of not more than*
22 *two thousand five hundred dollars (\$2,500) or by imprisonment*
23 *in the county jail for not more than three months, or by both that*
24 *fine and imprisonment.*

25 (4) *A tow truck operator that fails to comply with paragraph*
26 *(2) shall be civilly liable to the vehicle owner for four times the*
27 *applicable towing and storage charges, but not to exceed two*
28 *thousand five hundred dollars (\$2,500).*

29 (h) (1) A towing company may impose a charge of not more
30 than one-half of the regular towing charge for the towing of a
31 vehicle at the request of the owner ~~of private property or that, the~~
32 *owner's agent, or the person in lawful possession of a private*
33 *property pursuant to this section if the owner of the vehicle or the*
34 *that owner's agent returns to the vehicle before it after it has*
35 *been coupled to the tow truck by means of a regular hitch,*
36 *coupling device, drawbar, portable dolly, or lifted off the ground*
37 *by means of a conventional trailer, but before the vehicle is*
38 *removed from the private property. The*

39 (2) *The regular towing charge may only be imposed after the*
40 *vehicle has been removed from the property and is in transit.*

1 (3) *A vehicle owner who fails to pay the fee specified in*
2 *paragraph (1) within 45 days of receipt of a written invoice shall*
3 *be responsible for the full regular towing charge and all*
4 *reasonable costs of collection.*

5 (i) (1) *A charge for towing or storage, or both, of a vehicle*
6 *under this section is excessive if the charge is greater than that*
7 *which would have been charged for towing or storage, or both,*
8 *made at the request of a law enforcement agency under an*
9 *agreement between the law enforcement agency and a towing*
10 *company and the law enforcement agency that exercises primary*
11 *jurisdiction in the city or county in which is located the private*
12 *property from which the vehicle was, or was attempted to be,*
13 *removed, or if the private property is not located within a city,*
14 *then the law enforcement agency that exercises primary*
15 *jurisdiction in the county in which the private property is located.*

16 (2) *If a vehicle is released within 24 hours from the time the*
17 *vehicle is brought into the storage facility, regardless of the*
18 *calendar date, the storage charge shall be for only one day. Not*
19 *more than one day's storage charge may be required for any*
20 *vehicle released the same day that it is stored.*

21 (3) *If a request to release a vehicle is made and the appropriate*
22 *fees are tendered and documentation establishing that the person*
23 *requesting release is entitled to possession of the vehicle, or is*
24 *the owner's insurance representative, is presented within the*
25 *initial 24 hours of storage, and the storage facility fails to comply*
26 *with the request to release the vehicle or is not open for business*
27 *during normal business hours, then only one day's storage charge*
28 *may be required to be paid until after the first business day. A*
29 *business day is any day in which the lienholder is open for*
30 *business to the public for at least eight hours. If a request is made*
31 *more than 24 hours after the vehicle is placed in storage, charges*
32 *may be imposed on a full calendar day basis for each day, or part*
33 *thereof, that the vehicle is in storage.*

34 (4) *A fee charged to release vehicles after the normal business*
35 *hours shall not exceed one-half the regular towing charges.*

36 (j) ~~Any~~ (1) *A person who charges a vehicle owner a towing,*
37 *service, or storage charge at an excessive rate, as described in*
38 *subdivision (h) or (i), is civilly liable to the vehicle owner for*
39 *four times the amount charged, not to exceed two thousand five*
40 *hundred dollars (\$2,500).*

(2) A person who knowingly charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (h) or (i), is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500) or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(k) ~~Persons—~~(1) A person operating or in charge of ~~any~~ a storage facility where vehicles are stored pursuant to this section shall accept a valid bank credit card or cash for payment of towing and storage by a registered owner or the owner's agent claiming the vehicle. ~~A~~

(2) A person described in paragraph (1) shall conspicuously display, in that portion of the storage facility office where business is conducted with the public, a sign not less than eight and one-half inches by 11 inches in size, with lettering not less than one inch in height, advising that valid bank cards and cash are acceptable means of payment.

(3) ~~A person operating or in charge of any storage facility described in paragraph (1) who refuses to accept a valid bank credit card, or who fails to post the required sign under paragraph (2) is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment. is~~

(4) A person described in paragraph (1) is civilly liable to the registered owner of the vehicle for four times the amount of the towing and storage charges, but not to exceed ~~five~~ seven hundred fifty dollars ~~(\$500)~~ (\$750). ~~In addition, persons operating or in charge of the storage facility shall~~

(5) A person described in paragraph (1) shall have sufficient moneys on the premises of the primary storage facility during normal business hours to accommodate, and make change in, a reasonable monetary transaction. ~~Credit~~

(6) ~~Credit~~ charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies as described in subdivision (i).

(l) (1) ~~A~~ Except as provided in paragraph (2), a towing company shall not remove or commence the removal of a vehicle

1 from private property without first obtaining written
2 authorization from the property owner ~~or lessee, or an employee~~
3 ~~or agent thereof, who shall be present at the time of removal.~~
4 *General*, the owner's agent, or person in lawful possession of the
5 private property. The written authorization shall include all of
6 the following:

7 (A) *The make, model, and license plate number of the removed*
8 *vehicle.*

9 (B) *The name, signature, job title, business address, and*
10 *working telephone number of the person authorizing the removal*
11 *of the vehicle.*

12 (C) *The grounds for the removal of the vehicle.*

13 (D) *The time when the vehicle was first observed parked at the*
14 *private property.*

15 (2) *General* authorization to remove or commence removal of
16 a vehicle at the towing company's discretion ~~shall not~~ may be
17 delegated to a towing company ~~or its affiliates except~~ in the case
18 of a vehicle unlawfully parked within 15 feet of a fire hydrant or
19 in a fire lane, *in a parking space or a stall legally designated for*
20 *disabled persons without a proper permit*, or in a manner ~~which~~
21 *that interferes with any* an entrance to, or exit from, the private
22 property, *if the towing company meets all the following*
23 *requirements:*

24 (A) *The towing company and the property owner, owner's*
25 *agent, or person in lawful possession of the private property*
26 *shall have a valid written agreement that authorizes the towing*
27 *company to remove vehicles from the property pursuant to this*
28 *paragraph.*

29 (B) *The towing company posts a bond pursuant to subdivision*
30 *(o) and provides a certified copy of the bond to the property*
31 *owner, owner's agent, or person in lawful possession of the*
32 *property as an attachment to the valid agreement required by*
33 *subparagraph (A).*

34 (C) *The tow truck operator responsible for removing the*
35 *vehicle from the property shall have successfully completed a*
36 *Department of California Highway Patrol approved tow truck*
37 *driver training and education course within 90 days of being*
38 *hired by the towing company.*

39 (D) *All of the towing company's drivers shall be enrolled in*
40 *the Department of Motor Vehicle's Pull Notice Program.*

1 (E) *The towing company shall have a valid motor carrier*
2 *permit and shall provide a certified copy of the permit to the*
3 *property owner, owner's agent, or person in lawful possession of*
4 *the property as an attachment to the valid written agreement*
5 *required by this subparagraph (A)).*

6 ~~(2)~~

7 (3) ~~If a towing company removes a vehicle without written~~
8 ~~authorization and that vehicle is unlawfully parked within 15 feet~~
9 ~~of a fire hydrant or in a fire lane, or in a manner which interferes~~
10 ~~with any entrance to, or exit from, the private property pursuant~~
11 ~~to paragraph (2), the towing company shall take, prior to the~~
12 ~~removal of that vehicle, a photograph of the vehicle which that~~
13 ~~clearly indicates that parking violation. The towing company~~
14 ~~shall keep one copy of the photograph taken pursuant to this~~
15 ~~paragraph, and, prior to accepting payment, shall present that~~
16 ~~photograph and provide a photocopy to the owner or an agent of~~
17 ~~the owner, when that person claims the vehicle.~~

18 ~~(3) Any towing company, or any affiliate of a towing~~
19 ~~company, which removes, or commences removal of, a vehicle~~
20 ~~from private property without first obtaining written~~
21 ~~authorization from the property owner or lessee, or an employee~~
22 ~~or agent thereof, who is present at the time of removal or~~
23 ~~commencement of the removal, except as permitted by paragraph~~
24 ~~(1), is liable to the owner of the vehicle for four times the amount~~
25 ~~of the towing and storage charges, in addition to any applicable~~
26 ~~criminal penalty, for a violation of paragraph (1).~~

27 (4) *When the vehicle owner, or owner's agent claims the*
28 *vehicle, the towing company prior to payment of any towing or*
29 *storage charge shall provide a copy of the written authorization*
30 *required pursuant to paragraph (1) or the written authorization*
31 *agreement required pursuant to subparagraph (A) of paragraph*
32 *(2), as appropriate, to the vehicle owner or owner's agent.*

33 (5) *A towing company shall maintain the written*
34 *authorizations and photographs required by this subdivision for*
35 *a period of three years and shall make them available for*
36 *inspection and copying without a warrant during normal*
37 *business hours to law enforcement, the Attorney General, district*
38 *attorney, or city attorney.*

39 (6) *A person who violates this subdivision is guilty of a*
40 *misdemeanor, punishable by a fine of not more than two*

1 *thousand five hundred dollars (\$2,500), or by imprisonment in*
2 *the county jail for not more than three months, or by both that*
3 *fine and imprisonment.*

4 *(7) A person who violates this subdivision is civilly liable to*
5 *the owner of the vehicle, or his or her agent, for 10 times the*
6 *amount of the towing and storage charges, not to exceed two*
7 *thousand five hundred dollars (\$2,500).*

8 *(m) (1) A towing company or tow truck operator that removes*
9 *or commences to remove a vehicle from private property without*
10 *a valid motor carrier permit is guilty of a misdemeanor and*
11 *punishable pursuant to Section 34661.*

12 *(2) A law enforcement officer may impound a tow truck under*
13 *any of the following situations:*

14 *(A) The tow truck is operating without a valid motor carrier*
15 *permit.*

16 *(B) The tow truck operator is removing a vehicle without the*
17 *bond required pursuant to subdivision (o).*

18 *(C) The tow truck operator is removing a vehicle without a*
19 *written agreement or written authorization from the property*
20 *owner, owner's agent, or person in lawful possession of the*
21 *property.*

22 *(3) The law enforcement officer shall comply with the*
23 *requirements of Section 22852.*

24 *(4) The tow truck shall be released to the registered owner or*
25 *authorized agent after the registered owner or agent furnishes*
26 *the law enforcement agency proof of current registration, a*
27 *current valid driver's license of the appropriate class to operate*
28 *the vehicle or combination of vehicles, and proof of compliance*
29 *with Division 14.85 (commencing with Section 34600). The*
30 *registered owner or authorized agent is responsible for all*
31 *towing and storage charges related to the impoundment.*

32 *(n) A vehicle removed from private property pursuant to this*
33 *section shall be stored in a facility that meets all of the following*
34 *requirements:*

35 *(1) Remains open during normal business hours and releases*
36 *vehicle after normal business hours.*

37 *(2) Has a public pay phone within 100 feet of the entrance of*
38 *the storage facility or has a telephone available for customer use*
39 *during normal business hours.*

1 (3) *Has a liability and property insurance of at least one*
2 *million dollars (\$1,000,000) in place.*

3 (4) *Is enclosed by a permanent security fence and equipped*
4 *with adequate lighting, if the facility is outdoors.*

5 (5) *Is located within a 12-mile radius of the property from*
6 *where the vehicle was removed, or, if there is no facility within a*
7 *12-mile radius that complies with the requirements of*
8 *paragraphs (1) to (4), inclusive, the closest facility that complies*
9 *with those requirements.*

10 (o) (1) *A towing company removing a vehicle pursuant to this*
11 *section shall procure and file with the Department of Motor*
12 *Vehicles a bond, in the amount of twenty-five thousand dollars*
13 *(\$25,000).*

14 (2) *The bond required by this subdivision shall be executed by*
15 *an admitted surety insurer, approved as to form by the Attorney*
16 *General, and conditioned that the towing company shall satisfy*
17 *any civil liability to the owner of a vehicle imposed pursuant to*
18 *this section; and that the towing company shall not practice any*
19 *fraud or make any fraudulent presentation that will cause a*
20 *monetary loss to the owner, owner's agent, or person in lawful*
21 *possession of private property, or the owner of the vehicle.*

22 (3) *A person who violates this subdivision is guilty of a*
23 *misdemeanor, punishable by a fine of not more than two*
24 *thousand five hundred dollars (\$2,500), or by imprisonment in*
25 *the county jail for not more than three months, or by both that*
26 *fine and imprisonment.*

27 (4) *A person who violates this subdivision is civilly liable to*
28 *the owner of the vehicle in the amount of two thousand five*
29 *hundred dollars (\$2,500).*

30 (p) *For the purposes of this section, "normal business hours"*
31 *are Monday through Friday from 8:00 a.m. to 5:00 p.m., except*
32 *on state holidays.*

33 ~~(m)~~

34 (q) (1) *It is the intent of the Legislature in the adoption of*
35 *subdivision (k) to assist vehicle owners or their agents by, among*
36 *other things, allowing payment by credit cards for towing and*
37 *storage services, thereby expediting the recovery of towed*
38 *vehicles and concurrently promoting the safety and welfare of the*
39 *public.*

(2) It is the intent of the Legislature in the adoption of subdivision (l) to further the safety of the general public by ensuring that a private property owner ~~or lessee, owner's agent, or person in lawful possession of private property~~ has provided his or her authorization for the removal of a vehicle from his or her property, thereby promoting the safety of those persons involved in ordering the removal of the vehicle as well as those persons removing, towing, and storing the vehicle.

(3) *It is the intent of the Legislature in the adoption of subdivision (g) to promote the safety of the general public by requiring towing companies to unconditionally release a vehicle that is not lawfully in their possession, thereby avoiding the likelihood of dangerous and violent confrontation and physical injury to vehicle owners and towing operators, the stranding of vehicle owners and their passengers at a dangerous time and location, and impeding expedited vehicle recovery, without wasting state and local law enforcement's limited resources.*

(4) *The Legislature finds that the safety and welfare of the general public is promoted by a uniform statewide regulation of tow truck companies related to the towing and storage of vehicles, thereby ensuring against towing mistakes that may lead to violent confrontation, stranding motorists in dangerous situations, impeding the expedited vehicle recovery, and wasting state and local law enforcement's limited resources.*

(r) *The remedies provided in this section are not exclusive and are in addition to other remedies or procedures that may be provided in other provisions of law.*

SEC. 2. *Section 22658.2 of the Vehicle Code is repealed.*

~~22658.2. (a) Except as provided in subdivision (b), an "association", as defined in subdivision (a) of Section 1351 of the Civil Code, of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, may cause the removal of a vehicle parked on that property to the nearest public garage if all of the following requirements are satisfied:~~

~~(1) A sign not less than 17 by 22 inches in size with lettering not less than one inch in height appears at each entrance to the common interest development and contains both of the following:~~

1 ~~(A) A statement that public parking is prohibited and all~~
2 ~~vehicles not authorized to park on the common interest~~
3 ~~development will be removed at the owner's expense.~~

4 ~~(B) The telephone number of the local traffic law enforcement~~
5 ~~agency.~~

6 ~~The sign may also indicate that a citation may be issued for the~~
7 ~~violation.~~

8 ~~(2) If the identity of the registered owner of the vehicle is~~
9 ~~known or readily ascertainable, the president of the association or~~
10 ~~his or her designee shall, within a reasonable time, notify the~~
11 ~~owner of the removal by first-class mail. If the identity of the~~
12 ~~owner of the vehicle is not known or ascertainable, the president~~
13 ~~of the association or his or her designee shall comply with~~
14 ~~subdivision (c) of Section 22853.~~

15 ~~(3) The president of the association or his or her designee,~~
16 ~~gives or causes to be given, notice of the removal to the local~~
17 ~~traffic law enforcement agency immediately after the vehicle has~~
18 ~~been removed. The notice shall include a description of the~~
19 ~~vehicle, the license plate number, and the address from where the~~
20 ~~vehicle was removed.~~

21 ~~(b) The association may cause the removal without notice of~~
22 ~~any vehicle parked in a marked fire lane, within 15 feet of a fire~~
23 ~~hydrant, in a parking space designated for disabled persons~~
24 ~~without proper authority, or in a manner which interferes with~~
25 ~~any entrance to, or exit from, the common interest development~~
26 ~~or any separate interest contained therein.~~

27 ~~(c) Notwithstanding Section 1708 of the Civil Code, the~~
28 ~~association is not liable for any damages incurred by the vehicle~~
29 ~~owner because of the removal of a vehicle in compliance with~~
30 ~~this section or for any damage to the vehicle caused by the~~
31 ~~removal. However, the owner of a vehicle removed pursuant to~~
32 ~~this section may recover for any damage to the vehicle which~~
33 ~~results from any intentional or negligent act of the association or~~
34 ~~any person causing the removal of, or removing, the vehicle.~~

35 ~~(d) Notwithstanding any other provision of law, subdivisions~~
36 ~~(f) to (k), inclusive, of Section 22658 apply to the removal of~~
37 ~~vehicles pursuant to this section.~~

38 *SEC. 3. Section 22953 of the Vehicle Code is amended to*
39 *read:*

1 22953. (a) ~~Every~~*An* owner, *owner's agent*, or person in
2 lawful possession of ~~any~~ private property ~~which~~ *that* is held open
3 to the public, or a discernible portion thereof, for parking of
4 vehicles at no fee, ~~or an employee or agent thereof~~, shall not tow
5 or remove, or cause the towing or removal, of ~~any~~ *a* vehicle
6 within one hour of the vehicle being parked.

7 (b) Notwithstanding subdivision (a), a vehicle may be
8 removed immediately ~~after being illegally~~ *under any of the*
9 *following*:

10 (1) *The vehicle is illegally parked within 15 feet of a fire*
11 *hydrant, in a fire lane, or in.*

12 (2) *The vehicle is parked in a manner that interferes with an*
13 *entrance to, or exit from, the private property.*

14 (3) *The vehicle is illegally parked in a parking space or stall*
15 *legally designated for disabled persons.*

16 (c) Subdivision (a) does not apply to property designated for
17 parking at an apartment complex, or to property designated for
18 parking at a hotel or motel where the parking stalls or spaces are
19 clearly marked for a specific room.

20 (d) *It is the intent of the Legislature in the adoption of*
21 *subdivision (a) to avoid causing the unnecessary stranding of*
22 *motorists and placing them in a dangerous situations, when*
23 *traffic citations and other civil remedies are available, thereby*
24 *promoting the safety of the general public.*

25 (e) *A person who violates this section is civilly liable to the*
26 *owner of the vehicle or his or her agent for two times the amount*
27 *of the towing and storage charges.*

28 SEC. 4. *Section 40000.15 of the Vehicle Code is amended to*
29 *read:*

30 40000.15. A violation of any of the following provisions shall
31 constitute a misdemeanor, and not an infraction:

32 *Subdivision (g), paragraph (2) of subdivision (j), paragraph*
33 *(4) of subdivision (k), or subdivision (l) of Section 22658,*
34 *relating to the removal of vehicles from private property.*

35 Sections 23103 and 23104, relating to reckless driving.

36 Section 23109, relating to speed contests or exhibitions.

37 Subdivision (a) of Section 23110, relating to throwing at
38 vehicles.

39 Section 23152, relating to driving under the influence.

1 Subdivision (b) of Section 23222, relating to possession of
2 marijuana.

3 Subdivision (a) or (b) of Section 23224, relating to persons
4 under 21 years of age knowingly driving, or being a passenger in,
5 a motor vehicle carrying any alcoholic beverage.

6 Section 23253, relating to officers on vehicular crossings.

7 Section 23332, relating to trespassing.

8 Section 24002.5, relating to unlawful operation of a farm
9 vehicle.

10 Section 24011.3, relating to vehicle bumper strength notices.

11 Section 27150.1, relating to sale of exhaust systems.

12 Section 27362, relating to child passenger seat restraints.

13 Section 28050, relating to true mileage driven.

14 Section 28050.5, relating to nonfunctional odometers.

15 Section 28051, relating to resetting odometers.

16 Section 28051.5, relating to devices to reset odometers.

17 Subdivision (d) of Section 28150, relating to possessing four or
18 more jamming devices.

19 ~~SECTION 1. Section 22658 of the Vehicle Code is amended~~
20 ~~to read:~~

21 ~~22658. (a) Except as provided in Section 22658.2, an owner,~~
22 ~~the owner's agent, or person in lawful possession of private~~
23 ~~property, who has reliable documentation showing that the~~
24 ~~towing company that will be used to remove, a vehicle has~~
25 ~~posted a twenty-five thousand dollar (\$25,000) bond that meets~~
26 ~~the requirements of subdivision (o) and has a valid motor carrier~~
27 ~~permit issued pursuant to Chapter 2 (commencing with Section~~
28 ~~34620) of Division 14.85, within one hour of notifying, by~~
29 ~~telephone or, if impractical, by the most expeditious means~~
30 ~~available, the local traffic law enforcement agency, may cause~~
31 ~~the removal of a vehicle parked on the property to a storage~~
32 ~~facility that meets the requirements of subdivision (n) under any~~
33 ~~of the following circumstances:~~

34 ~~(1) There is displayed, in plain view at all entrances to the~~
35 ~~property, a sign not less than 18 by 24 inches in size, with~~
36 ~~lettering not less than one and one-quarter inches in height,~~
37 ~~prohibiting public parking and indicating that vehicles will be~~
38 ~~removed at the owner's expense, and containing the telephone~~
39 ~~number of the local traffic law enforcement agency and the name~~
40 ~~and telephone number of the towing company authorized to~~

1 ~~remove vehicles from the property. The sign may also indicate~~
2 ~~that a citation may also be issued for the violation.~~

3 ~~(2) The vehicle has been issued a notice of parking violation,~~
4 ~~and 96 hours have elapsed since the issuance of that notice.~~

5 ~~(3) The vehicle is on private property and lacks an engine,~~
6 ~~transmission, wheels, tires, doors, windshield, or any other major~~
7 ~~part or equipment necessary to operate safely on the highways;~~
8 ~~the owner or person in lawful possession of the private property~~
9 ~~has notified the local traffic law enforcement agency, and 24~~
10 ~~hours have elapsed since that notification.~~

11 ~~(4) The lot or parcel upon which the vehicle is parked is~~
12 ~~improved with a single-family dwelling.~~

13 ~~(b) The tow truck operator removing the vehicle, if that person~~
14 ~~knows or is able to ascertain from the registration records of the~~
15 ~~Department of Motor Vehicles the name and address of the~~
16 ~~registered and legal owner of the vehicle, shall immediately give,~~
17 ~~or cause to be given, notice in writing to the registered and legal~~
18 ~~owner of the fact of the removal, the grounds for the removal,~~
19 ~~and indicate the place to which the vehicle has been removed. If~~
20 ~~the vehicle is stored in a storage facility, a copy of the notice~~
21 ~~shall be given to the proprietor of the facility. The notice~~
22 ~~provided for in this section shall include the amount of mileage~~
23 ~~on the vehicle at the time of removal. If the tow truck operator~~
24 ~~does not know and is not able to ascertain the name of the owner~~
25 ~~or for any other reason is unable to give the notice to the owner~~
26 ~~as provided in this section, the tow truck operator shall comply~~
27 ~~with the requirements of subdivision (c) of Section 22853~~
28 ~~relating to notice in the same manner as applicable to an officer~~
29 ~~removing a vehicle from private property.~~

30 ~~(c) This section does not limit or affect any right or remedy~~
31 ~~which the owner, the owner's agent, or person in lawful~~
32 ~~possession of private property may have by virtue of other~~
33 ~~provisions of law authorizing the removal of a vehicle parked~~
34 ~~upon the private property.~~

35 ~~(d) The owner of a vehicle removed from private property~~
36 ~~pursuant to subdivision (a) may recover for any damage to the~~
37 ~~vehicle resulting from any intentional or negligent act of any~~
38 ~~person causing the removal of, or removing, or storing, the~~
39 ~~vehicle.~~

1 (e) ~~An owner, owner's agent, or a person in lawful possession~~
2 ~~of private property, or an "association" pursuant to Section~~
3 ~~22658.2, causing the removal of a vehicle parked on that~~
4 ~~property is liable for four times the applicable storage and towing~~
5 ~~charges, but not to exceed seven hundred fifty dollars (\$750);~~
6 ~~whenever there has been a failure to comply with paragraph (1),~~
7 ~~(2), or (3) of subdivision (a) or to state the grounds for the~~
8 ~~removal of the vehicle if requested by the legal or registered~~
9 ~~owner of the vehicle as required by subdivision (f).~~

10 (f) ~~An owner, owner's agent or a person in lawful possession~~
11 ~~of private property, or an "association" pursuant to Section~~
12 ~~22658.2, causing the removal of a vehicle parked on that~~
13 ~~property, or a tow truck operator that removes the vehicle, shall~~
14 ~~state the grounds for the removal of the vehicle if requested by~~
15 ~~the legal or registered owner of that vehicle. A towing company~~
16 ~~that removes a vehicle from private property with the~~
17 ~~authorization of the property owner or the property owner's agent~~
18 ~~shall not be held responsible in any situation relating to the~~
19 ~~validity of the removal. A towing company that removes the~~
20 ~~vehicle under this section shall be responsible for the removal of~~
21 ~~a vehicle other than the vehicle specified by the owner, owner's~~
22 ~~agent or other person in lawful possession of the private property.~~

23 (g) ~~Possession of a vehicle under this section shall be deemed~~
24 ~~to arise when a vehicle is removed from private property and is~~
25 ~~in transit.~~

26 (h) ~~A towing company may impose a charge of not more than~~
27 ~~one-half of the regular towing charge for the towing of a vehicle~~
28 ~~at the request of the owner, the owner's agent, or the person in~~
29 ~~lawful possession of private property pursuant to this section, if~~
30 ~~the owner of the vehicle or the owner's agent returns to the~~
31 ~~vehicle after it has been coupled to the tow truck by means of a~~
32 ~~regular hitch, coupling device, drawbar, portable dolly, or lifted~~
33 ~~off the ground by means of a conventional trailer, but before the~~
34 ~~vehicle is removed from the private property. The regular towing~~
35 ~~charge may only be imposed after the vehicle has been removed~~
36 ~~from the property and is in transit. A tow truck operator that~~
37 ~~refuses to return the vehicle to the vehicle's owner or owner's~~
38 ~~agent pursuant to this subdivision until the tow truck operator~~
39 ~~receives payment of the fee specified in this subdivision shall be~~
40 ~~liable for four times the applicable towing and storage charges,~~

1 but not to exceed two thousand five hundred dollars (\$2,500). A
2 vehicle owner who fails to pay the fee specified in this
3 subdivision within 45 days of receipt of a written invoice shall be
4 responsible for the full regular towing charge, any applicable
5 storage charge, and all reasonable costs of collection.

6 (i) (1) A charge for towing or storage, or both, of a vehicle
7 under this section is excessive if the charge is greater than that
8 which would have been charged for towing or storage, or both,
9 made at the request of a law enforcement agency under an
10 agreement between the law enforcement agency and a towing
11 company in the city or county in which is located the private
12 property from which the vehicle was, or was attempted to be,
13 removed.

14 (2) If a vehicle is released within 24 hours from the time the
15 vehicle is brought into the storage facility, regardless of the
16 calendar date, the storage charge shall be for only one day. Not
17 more than one day's storage charge may be required for any
18 vehicle released the same day that it is stored.

19 (3) If a request to release a vehicle is made and the appropriate
20 fees are tendered and documentation establishing that the person
21 requesting release is entitled to possession of the vehicle, or is
22 the owner's insurance representative, is presented within the
23 initial 24 hours of storage, and the storage facility fails to comply
24 with the request to release the vehicle or is not open for business
25 during normal business hours, then only one day's storage charge
26 may be required to be paid until after the first business day. A
27 business day is any day in which the lienholder is open for
28 business to the public for at least eight hours. If a request is made
29 more than 24 hours after the vehicle is placed in storage, charges
30 may be imposed on a full calendar day basis for each day, or part
31 thereof, that the vehicle is in storage. A fee charged to release
32 vehicles after the normal business hours shall not exceed one-half
33 the regular towing charge. A storage facility operator that
34 charges a fee for releasing a vehicle stored pursuant to this
35 section during normal business hours, or charges any fee in
36 excess of the fee authorized by this paragraph, is liable to the
37 vehicle owner for four times the applicable towing charges.

38 (j) A person who charges a vehicle owner a towing, service, or
39 storage charge at an excessive rate, as described in subdivision

1 ~~(i), is liable to the vehicle owner for four times the amount~~
2 ~~charged.~~

3 ~~(k) Persons operating or in charge of any storage facility~~
4 ~~where vehicles are stored pursuant to this section shall accept a~~
5 ~~valid bank credit card, including, but not limited to, Visa or~~
6 ~~Mastercard, or cash for payment of towing and storage by a~~
7 ~~registered owner or the owner's agent claiming the vehicle. A~~
8 ~~person operating or in charge of any storage facility who refuses~~
9 ~~to accept a valid bank credit card, including, but not limited to,~~
10 ~~Visa or Mastercard, is liable to the registered owner of the~~
11 ~~vehicle for four times the amount of the towing and storage~~
12 ~~charges, but not to exceed seven hundred fifty dollars (\$750). In~~
13 ~~addition, persons operating or in charge of the storage facility~~
14 ~~shall have sufficient moneys on the premises of the primary~~
15 ~~storage facility during normal business hours to accommodate,~~
16 ~~and make change in, a reasonable monetary transaction.~~

17 ~~Credit charges for towing and storage services shall comply~~
18 ~~with Section 1748.1 of the Civil Code. Law enforcement~~
19 ~~agencies may include the costs of providing for payment by~~
20 ~~credit when making agreements with towing companies as~~
21 ~~described in subdivision (i).~~

22 ~~(l) (1) (A) A towing company shall not remove or commence~~
23 ~~the removal of a vehicle from private property without first~~
24 ~~obtaining written authorization from the property owner, the~~
25 ~~owner's agent, or the person in lawful possession thereof, who~~
26 ~~shall be present at the time of removal.~~

27 ~~(B) General authorization to remove or commence removal of~~
28 ~~a vehicle at the towing company's discretion shall not be~~
29 ~~delegated to a towing company or its affiliates unless the towing~~
30 ~~company meets all of the following requirements:~~

31 ~~(i) The towing company and the property owner, owner's~~
32 ~~agent, or person in lawful possession of the private property have~~
33 ~~a valid, written agreement that authorizes the towing company to~~
34 ~~remove vehicles from the property.~~

35 ~~(ii) The written agreement contains rules under which a~~
36 ~~vehicle can be removed from the property and is available for~~
37 ~~inspection by a law enforcement officer during normal business~~
38 ~~hours.~~

39 ~~(iii) The tow truck operator responsible for removing the~~
40 ~~vehicle from the property has, in his or her possession, a copy of~~

1 ~~the rules under which a vehicle can be removed from the~~
2 ~~property.~~

3 ~~(iv) The towing company posts a fifty thousand dollar~~
4 ~~(\$50,000) bond that meets the requirement of subdivision (o) and~~
5 ~~provides a certified copy of the bond to the property owner,~~
6 ~~owner's agent, or person in lawful possession of the property as~~
7 ~~an attachment to the valid written agreement required by this~~
8 ~~subparagraph.~~

9 ~~(v) The tow truck operator responsible for removing the~~
10 ~~vehicle from the property successfully completed a Department~~
11 ~~of California Highway Patrol approved tow truck driver training~~
12 ~~and education course within 90 days of being hired by the towing~~
13 ~~company.~~

14 ~~(vi) All of the towing company's drivers are enrolled in the~~
15 ~~Department of Motor Vehicle's Pull Notice Program.~~

16 ~~(vii) The towing company has a valid motor carrier permit and~~
17 ~~has provided a certified copy of the permit to the property owner,~~
18 ~~owner's agent, or person in lawful possession of the property as~~
19 ~~an attachment to the valid written agreement required by this~~
20 ~~subparagraph.~~

21 ~~(viii) Prior to removing a vehicle from the property pursuant to~~
22 ~~this subparagraph, the tow truck operator takes two photographs~~
23 ~~of the vehicle that clearly show the violation, and provide one~~
24 ~~photograph to the vehicle's owner or owner's agent upon demand~~
25 ~~during normal business hours. A towing company or tow truck~~
26 ~~operator that fails to provide a copy of the photograph as required~~
27 ~~by this clause is liable to the vehicle's owner for four times the~~
28 ~~amount of the applicable towing and storage charges, but not to~~
29 ~~exceed two thousand five hundred dollars (\$2,500).~~

30 ~~(2) A towing company, tow truck operator, or any affiliate of a~~
31 ~~towing company, that removes, or commences removal of, a~~
32 ~~vehicle from private property without complying with paragraph~~
33 ~~(1) is liable to the owner of the vehicle for 10 times the amount~~
34 ~~of the towing and storage charges, but not to exceed two~~
35 ~~thousand five hundred dollars (\$2,500), in addition to any~~
36 ~~applicable criminal penalty.~~

37 ~~(m) (1) A towing company or tow truck operator that removes~~
38 ~~or commences the removal of a vehicle from private property~~
39 ~~without a valid motor carrier permit is guilty of a misdemeanor~~
40 ~~and shall be punished pursuant to Section 34661.~~

1 ~~(2) A member of the Department of California Highway Patrol~~
2 ~~or any other law enforcement officer may impound a tow truck~~
3 ~~when the vehicle is found to be operating without a valid motor~~
4 ~~carrier permit.~~

5 ~~(3) The tow truck shall be released to the registered owner or~~
6 ~~authorized agent after the registered owner or agent furnishes the~~
7 ~~Department of California Highway Patrol proof of current~~
8 ~~registration, a currently valid driver's license of the appropriate~~
9 ~~class to operate the vehicle or combination of vehicles, and proof~~
10 ~~of compliance with Division 14.85 (commencing with Section~~
11 ~~34600). The registered owner or authorized agent is responsible~~
12 ~~for all towing and storage charges related to the impoundment.~~

13 ~~(n) A vehicle removed from private property pursuant to this~~
14 ~~section shall be stored in a facility that meets all of the following~~
15 ~~requirements:~~

16 ~~(1) Is located within a 20-mile radius of the property from~~
17 ~~where the vehicle was removed.~~

18 ~~(2) Remains open during normal business hours and releases~~
19 ~~vehicles after normal business hours.~~

20 ~~(3) Has a public pay phone within 100 feet of the entrance of~~
21 ~~the storage facility.~~

22 ~~(4) Has liability and property insurance of at least one million~~
23 ~~dollars (\$1,000,000) in place.~~

24 ~~(5) Is enclosed by a permanent security fence and equipped~~
25 ~~with adequate lighting, if the facility is outdoors.~~

26 ~~(o) (1) A towing company removing a vehicle pursuant to this~~
27 ~~section shall procure and file with the Department of Motor~~
28 ~~Vehicles a bond, in the amount of twenty-five thousand dollars~~
29 ~~(\$25,000), executed by an admitted surety insurer, approved as to~~
30 ~~form by the Attorney General, and conditioned that the towing~~
31 ~~company shall not practice any fraud or make any fraudulent~~
32 ~~presentation that will cause a monetary loss to the owner,~~
33 ~~owner's agent, or person in lawful possession of private property;~~
34 ~~or the owner of a vehicle; and that the towing company shall~~
35 ~~satisfy any liability to the owner of a vehicle imposed pursuant to~~
36 ~~this section.~~

37 ~~(2) A towing company that does not procure a bond as~~
38 ~~required by this subdivision or clause (iv) of subparagraph (B) of~~
39 ~~paragraph (1) of subdivision (l) is subject to a civil penalty of~~
40 ~~two thousand five hundred dollars (\$2,500).~~

1 ~~(p) For the purposes of this section, “normal business hours”~~
2 ~~are Monday through Friday from 8:00 a.m. to 5:00 p.m., except~~
3 ~~on state holidays.~~

4 ~~(q) (1) It is the intent of the Legislature in the adoption of~~
5 ~~subdivision (k) to assist vehicle owners or their agents by, among~~
6 ~~other things, allowing payment by credit cards for towing and~~
7 ~~storage services, thereby expediting the recovery of towed~~
8 ~~vehicles and concurrently promoting the safety and welfare of the~~
9 ~~public.~~

10 ~~(2) It is the intent of the Legislature in the adoption of~~
11 ~~subdivision (l) to further the safety of the general public by~~
12 ~~ensuring that a private property owner or lessee has provided his~~
13 ~~or her authorization for the removal of a vehicle from his or her~~
14 ~~property, thereby promoting the safety of those persons involved~~
15 ~~in ordering the removal of the vehicle as well as those persons~~
16 ~~removing, towing, and storing the vehicle.~~

17 ~~SEC. 2.~~

18 ~~SEC. 5. No reimbursement is required by this act pursuant to~~
19 ~~Section 6 of Article XIII B of the California Constitution because~~
20 ~~the only costs that may be incurred by a local agency or school~~
21 ~~district will be incurred because this act creates a new crime or~~
22 ~~infraction, eliminates a crime or infraction, or changes the~~
23 ~~penalty for a crime or infraction, within the meaning of Section~~
24 ~~17556 of the Government Code, or changes the definition of a~~
25 ~~crime within the meaning of Section 6 of Article XIII B of the~~
26 ~~California Constitution.~~